

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: H3/14/07

A Bill

HOUSE BILL 2724

5 By: Representatives Petrus, Thyer
6
7

For An Act To Be Entitled

9 AN ACT AMENDING CERTAIN SECTIONS OF ARKANSAS LAW
10 CONCERNING CAMPAIGN FINANCE AND ETHICS; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13 AN ACT AMENDING CERTAIN SECTIONS OF
14 ARKANSAS LAW CONCERNING CAMPAIGN FINANCE
15 AND ETHICS.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 *SECTION 1. Arkansas Code Title 7, Chapter 6, Subchapter 2 is amended*
22 *to add an additional section to read as follows:*

23 *7-6-227. Contributions by business entities sharing the same majority*
24 *owner.*

25 *(a) As used in this section, "business entities" means*
26 *proprietorships, firms, partnerships, joint ventures, syndicates, labor*
27 *unions, business trusts, companies, corporations, associations, committees,*
28 *or any other organization or group of persons acting in concert.*

29 *(b) Two (2) or more business entities sharing the same majority owner*
30 *shall be considered a single person for the purpose of making a contribution*
31 *or contributions to a candidate for each election, whether opposed or*
32 *unopposed.*

33 *(c)(1) A candidate shall not knowingly accept campaign contributions*
34 *from two (2) or more business entities sharing the same majority owner which,*
35 *in the aggregate, exceed the campaign contribution limit under § 7-6-203(a)*
36 *and (b).*



1 (2) If a candidate determines that he or she unknowingly
 2 accepted a contribution or contributions that violates subdivision (c)(1) of
 3 this section, the candidate shall return the contribution or contributions to
 4 the business entity within five (5) days of the determination.

5
 6 SECTION 2. Arkansas Code § 19-11-705 is amended to read as follows:

7 19-11-705. Employee conflict of interest.

8 ~~(a)~~ Conflict of Interest.

9 (1)(A) It shall be a breach of ethical standards for any
 10 employee or a member of the employee's immediate family to have a financial
 11 interest in a contract with the state agency employing the employee or a
 12 nonprofit organization created for the specific benefit of the state agency
 13 employing the employee, unless the contract:

14 (i) Is approved as provided in § 19-11-717 or § 19-
 15 11-718; or

16 (ii) Obtained under competitive sealed bids under §
 17 19-11-229 or competitive sealed proposals under § 19-11-230.

18 (B) An employee awarded a contract pursuant to competitive
 19 sealed bids or competitive sealed proposals pertaining to contracts entered
 20 into during the previous calendar year shall report the contract to the
 21 Director of the Arkansas Ethics Commission by January 31 of each year.

22 (2) It shall be a breach of ethical standards for any employee
 23 to participate directly or indirectly in any proceeding or application, in
 24 any request for ruling or other determination, in any claim or controversy,
 25 or in any other particular matter pertaining to any contract or subcontract,
 26 and any solicitation or proposal therefor with a state agency, in which to
 27 the employee's knowledge:

28 (A) The employee or any member of the employee's immediate
 29 family has a financial interest;

30 (B) A business or organization has a financial interest,
 31 in which business or organization the employee, or any member of the
 32 employee's immediate family, has a financial interest; or

33 (C) Any other person, business, or organization with whom
 34 the employee or any member of the employee's immediate family is negotiating
 35 or has an arrangement concerning prospective employment is a party.

36 ~~(2)~~(3) "Direct or indirect participation" shall include, but not

1 be limited to, involvement through decision, approval, disapproval,
2 recommendation, preparation of any part of a procurement request, influencing
3 the content of any specification or procurement standard, rendering of
4 advice, investigation, auditing, or in any other advisory capacity.

5 (b) *Financial Interest in a Blind Trust.* Where an employee or any
6 member of the employee's immediate family holds a financial interest in a
7 blind trust, the employee shall not be deemed to have a conflict of interest
8 with regard to matters pertaining to that financial interest if disclosure of
9 the existence of the blind trust has been made to the ~~Director of the~~
10 ~~Department of Finance and Administration~~ director.

11 (c) *Discovery of Conflict of Interest, Disqualification, and Waiver.*
12 Upon discovery of a possible conflict of interest, an employee shall promptly
13 file a written statement of disqualification with the ~~Director of the~~
14 ~~Department of Finance and Administration~~ director and shall withdraw from
15 further participation in the transaction involved. The employee may, at the
16 same time, apply to the director in accordance with § 19-11-715(b) for an
17 advisory opinion as to what further application, if any, the employee may
18 have in the transaction, or for a waiver in accordance with § 19-11-715(c).

19
20 SECTION 3. Arkansas Code § 19-11-706 is amended to read as follows:

21 19-11-706. Employee disclosure requirements.

22 (a) *Disclosure of Benefit Received from Contract.* Any employee who
23 has or obtains any benefit from any state contract with a business in which
24 the employee has a financial interest shall report such benefit to the
25 ~~Director of the Department of Finance and Administration~~ Director of the
26 Arkansas Ethics Commission by January 31 for transactions occurring in or
27 contracts entered into during the previous calendar year. However, this
28 section shall not apply to a contract with a business where the employee's
29 interest in the business has been placed in a disclosed blind trust.

30 (b) *Failure to Disclosure Benefit Received.* Any employee who knows or
31 should have known of such benefit and fails to report the benefit to the
32 ~~director~~ Arkansas Ethics Commission is in breach of the ethical standards of
33 this section.

34
35 SECTION 4. Arkansas Code § 19-11-712(b), pertaining to the civil and
36 administrative remedies against employees who breach ethical standards, is

1 amended to read as follows:

2 (b) Supplemental Remedies. In addition to existing remedies for
3 breach of the ethical standards of this subchapter, or ~~regulations~~ rules
4 promulgated thereunder, the ~~Director of the Department of Finance and~~
5 ~~Administration~~ Arkansas Ethics Commission may ~~impose~~ recommend any one (1) or
6 more of the following:

- 7 (1) Oral or written warnings or reprimands;
8 (2) Forfeiture of pay without suspension;
9 (3) Suspension with or without pay for specified periods of
10 time; and
11 (4) Termination of employment.

12

13 SECTION 5. Arkansas Code § 19-11-713(b), pertaining to the civil and
14 administrative remedies against nonemployees who breach ethical standards, is
15 amended to read as follows:

16 (b) Supplemental Remedies. In addition to the existing remedies for
17 breach of the ethical standards of this subchapter, or ~~regulations~~ rules
18 promulgated thereunder, the ~~Director of the Department of Finance and~~
19 ~~Administration~~ Arkansas Ethics Commission may ~~impose~~ recommend any one (1) or
20 more of the following:

- 21 (1) Oral or written warnings or reprimands;
22 (2) Termination of transactions; and
23 (3) Suspension or debarment from being a contractor or
24 subcontractor under state contracts.

25

26 SECTION 6. Arkansas Code § 19-11-715 is amended to read as follows:

27 19-11-715. ~~Duties of Director of Department of Finance and~~
28 ~~Administration~~ Rules and advisory opinion by the Arkansas Ethics Commission.

29 (a) ~~Regulations~~ Rules. The ~~Director of the Department of Finance and~~
30 ~~Administration~~ Arkansas Ethics Commission shall promulgate ~~regulations~~ rules
31 to implement this subchapter and shall do so in accordance with this
32 subchapter and the applicable provisions of the Arkansas Administrative
33 Procedure Act, § 25-15-201 et seq.

34 (b) Advisory Opinions. On written request of state agencies,
35 employees, or contractors and in consultation with the Attorney General, the
36 ~~director~~ Arkansas Ethics Commission may render written advisory opinions

1 regarding the appropriateness of the course of conduct to be followed in
2 proposed transactions. Such requests and advisory opinions may be duly
3 published in the manner in which ~~regulations~~ rules of this state are
4 published. ~~Compliance with the requirements of a duly promulgated advisory~~
5 ~~opinion of the director shall be deemed to constitute compliance with the~~
6 ~~ethical standards of this subchapter.~~

7 ~~(e) Waiver. On written request of an employee, the director may grant~~
8 ~~an employee a written waiver from the application of § 19-11-705, which~~
9 ~~refers to employee conflict of interest, and grant permission to proceed with~~
10 ~~the transaction to such extent and upon such terms and conditions as may be~~
11 ~~specified. Such waiver and permission may be granted when the interests of~~
12 ~~the state so require or when the ethical conflict is insubstantial or remote.~~

13
14 SECTION 7. Arkansas Code § 19-11-716 is amended to read as follows:

15 19-11-716. Participation in business incubators - ~~Regulations~~ Rules
16 and guidelines.

17 (a) The provisions of this subchapter shall not be applicable to
18 faculty or staff of state-supported institutions of higher education
19 participating in business incubators within this state if the faculty or
20 staff have followed the rules promulgated by the governing board of the
21 institution of higher education.

22 (b)(1) ~~The Director of the Department of Finance and Administration~~
23 Arkansas Ethics Commission shall promulgate rules ~~and regulations~~ pursuant to
24 the procedure for adoption as provided under the Arkansas Administrative
25 Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a
26 program allowing admittance to business incubators by faculty or staff of
27 state-supported institutions of higher education or admittance by companies
28 in which faculty or staff may hold an ownership interest.

29 (2) The program may include guidelines setting forth full
30 disclosure requirements, any limitations on ownership interests, maximum
31 income amounts to be received, annual reporting to the General Assembly,
32 mandatory levels of student participation and such other reasonable
33 restrictions as are necessary to maintain the public trust while encouraging
34 the facilitation of commercialization of university-generated technology or
35 discovery.

36 (c) The institution of higher education shall provide information

1 regarding the transactions described in subdivision (b)(1) of this section
2 and ownership interests of employees or board members in business incubators
3 pertaining to the prior fiscal year by August 1 of each year to the Arkansas
4 Ethics Commission, the Legislative Council, and the Legislative Joint
5 Auditing Committee.

6 (d) Failure to follow the provisions of this section shall be a
7 violation of the provisions of this chapter.

8
9 SECTION 8. Arkansas Code § 19-11-717 is amended to read as follows:

10 19-11-717. Institutions of higher education Transactions with
11 institutions of higher education involving patents, copyrights, or other
12 proprietary information.

13 ~~(a) Notwithstanding anything in this subchapter to the contrary, if,~~
14 ~~in either of the events in subdivisions (a)(1) and (2) of this section, the~~
15 ~~contract or subcontract, solicitation, or proposal involves patents,~~
16 ~~copyrights, or other proprietary information in which an institution of~~
17 ~~higher education and an employee or former employee of the institution have~~
18 ~~rights or interests, provided that any contract or subcontract shall be~~
19 ~~approved by the governing board of the institution in a public meeting, it~~
20 ~~shall not be a violation of § 19-11-709, a conflict of interest, or a breach~~
21 ~~of ethical standards for:~~

22 ~~(1) The institution to contract with a person or firm in which~~
23 ~~an employee or former employee of the institution has a financial interest;~~
24 ~~or~~

25 ~~(2) The employee or former employee of the institution to~~
26 ~~participate directly or indirectly in any matter pertaining to any contract~~
27 ~~or subcontract or any solicitation or proposal for any contract or~~
28 ~~subcontract between the institution and a person or firm in which the~~
29 ~~employee or former employee has a financial interest. If a contract or~~
30 subcontract, solicitation, or proposal involves patents, copyrights, or other
31 proprietary information in which an institution of higher education and an
32 employee or former employee have direct or indirect rights or interests, an
33 institution may enter the contract, except that any contract or subcontract
34 shall be approved by the governing board of the institution in a public
35 meeting.

36 (b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq.,

1 or in § 19-11-1001 et seq., shall prevent a state agency from contracting for
2 goods or services, including professional or consultant services, with an
3 organization that employs or contracts with a regular, full-time, or part-
4 time employee of a public institution of higher education in situations in
5 which the employee of the public institution of higher education will provide
6 some or all of the goods or services under the contract.

7 (2) Any organization or state agency entering into a contract
8 described under this subsection shall comply with the provisions of the
9 Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq., to
10 the extent that the provisions do not conflict with this section.

11 (3) An employee of a public institution of higher education who
12 provides goods or services to a state agency through his or her association
13 with an organization that has a contract with the state agency to provide
14 goods or services shall obtain the requisite approvals under the policies of
15 the public institution of higher education by which he or she is employed and
16 comply with all provisions of this subchapter.

17 (c) The Arkansas Ethics Commission may promulgate rules regarding
18 contracts as allowed in this section.

19 (d) The institution of higher education shall provide information
20 regarding these transactions pertaining to the prior fiscal year by August 1
21 of each year to the Arkansas Ethics Commission, the Legislative Council, and
22 the Legislative Joint Auditing Committee.

23 (e) Failure to follow the provisions of this section shall be a
24 violation of the provisions of this chapter.

25
26 SECTION 9. Arkansas Code Title 19, Chapter 11, Subchapter 7 is amended
27 to add an additional section to read as follows:

28 19-11-718. Issuance of waivers by the Arkansas Ethics Commission.

29 (a) A state agency or a nonprofit organization created for the
30 specific benefit of a state agency may file a request with the Director of
31 the Arkansas Ethics Commission to review a contract between the state agency
32 or nonprofit organization and an employee of that state agency or nonprofit
33 organization or a member of the employee's immediate family and to request a
34 waiver for the contract from the provisions of this subchapter.

35 (b) The request shall fully disclose all pertinent terms and
36 conditions of the contract and shall state the unusual circumstances

1 necessitating and justifying the contract.

2 (c)(1) The Director of the Arkansas Ethics Commission shall in writing
3 approve, disapprove, or request additional information necessary to make a
4 proper determination pertaining to the request within ten (10) working days
5 of receipt of the request.

6 (2)(A) If additional information is requested, the director
7 shall have an additional ten (10) working days from receipt of the
8 information to approve or disapprove the contract.

9 (B) If the director fails to approve or disapprove the
10 contract within the ten (10) working day periods provided in this subdivision
11 (c)(2), the contract shall be deemed approved.

12 (3) No contract subject to review by the director shall be valid
13 or enforceable until an approval letter has been issued by the director or if
14 the director fails to respond within the time periods specified in this
15 section.

16 (d) After examining the submitted information and additional requested
17 testimony or data, the director may approve the waiver of the contract if in
18 the opinion of the director:

19 (1) The circumstances are such that fair competitive access to
20 governmental procurement has been obtained;

21 (2) The contract is in the best interest of the state;

22 (3) The state agency has followed proper procedures in bidding
23 or awarding the contract; and

24 (4) It appears that an employee has not used his or her position
25 to obtain the contract.

26 (e)(1) All decisions of the director may be appealed to the Arkansas
27 Ethics Commission for review. All appeals shall be made in writing to the
28 Arkansas Ethics Commission within thirty (30) days of disapproval by the
29 director.

30 (2) Upon receipt of an appeal, the Arkansas Ethics Commission
31 shall decide the appeal at its next commission meeting unless additional
32 information or witnesses are required or a delay is agreed upon by the person
33 making the appeal.

34 (f) All decisions of the director or the Arkansas Ethics Commission
35 regarding the approval or denial of a contract shall be reported to the state
36 agency or nonprofit organization, the Chief Fiscal Officer of the State, the

1 Legislative Council, and the Legislative Joint Auditing Committee on a
2 quarterly basis.

3 (g) No contract subject to review and approval by the director or the
4 Arkansas Ethics Commission shall be valid or enforceable until an approval
5 letter has been issued by the director or the Arkansas Ethics Commission.

6 (h) The Arkansas Ethics Commission shall adopt appropriate rules
7 regarding the administration of the procedures contained in this subsection.

8 (i) Any person knowingly providing or furnishing false information or
9 knowingly not fully disclosing relevant information necessary for a proper
10 determination by the director or the Arkansas Ethics Commission is guilty of
11 violating the provisions of this subchapter.

12
13 SECTION 10. Arkansas Code § 19-11-1004(c), pertaining to restrictions
14 on contracts, is amended to read as follows:

15 (c)(1) Except as provided in this subsection, no state agency shall
16 engage in a professional services or consultant services contract with a
17 part-time or full-time employee who occupies a position authorized to be paid
18 from extra help or regular salaries for a state agency, except as provided in
19 § 21-1-403.

20 (2) However, this subsection does not prohibit an institution of
21 higher education from executing a contract with a state agency under which
22 professional or consulting services will be performed by employees of the
23 institution of higher education.

24 (3) An employee of an institution of higher education performing
25 professional or consulting services to a state agency may receive additional
26 compensation if:

27 (A) The institution of higher education requests and
28 receives written approval from the Office of Personnel Management of the
29 Department of Finance and Administration concerning the amount of additional
30 compensation to be paid to any employee; and

31 (B) The total salary payments received from the employee's
32 regular salaried position and amounts received for services performed under a
33 professional services contract do not exceed one hundred twenty-five percent
34 (125%) of the maximum annual salary authorized by law for the employee's
35 position with the institution of higher education.

36 (4) Any state agency engaging in a professional services or

1 consultant services contract as provided in subdivisions (c)(2) or (c)(3) of
2 this section shall provide a listing of such contracts for the previous year,
3 including without limitation the amounts paid and the person or persons
4 performing the services, to the Legislative Council and the Legislative Joint
5 Auditing Committee by January 31 of each year.

6
7 SECTION 11. Arkansas Code Title 19, Chapter 11, Subchapter 7 is
8 amended to add an additional section to read as follows:

9 19-11-718. Enforcement.

10 The Arkansas Ethics Commission shall have the authority to:

11 (1) Issue advisory opinions and guidelines on the requirements
12 of § 19-11-701 et seq.;

13 (2) Investigate potential violations of § 19-11-701 et seq.;

14 (3) Impose civil and administrative remedies as provided in §§
15 19-11-712 and 19-11-713 upon the finding of one (1) or more violations of §
16 19-11-701 et seq; and

17 (4) Promulgate reasonable rules to implement and administer the
18 requirements of § 19-11-701 et seq.

19
20 SECTION 12. Arkansas Code § 21-8-603 is amended to read as follows:

21 21-8-603. Activity reports - Inspection.

22 (a)(1) Within fifteen (15) days after the end of each calendar
23 quarter, each registered lobbyist shall file a complete and detailed
24 statement, signed and sworn to, concerning his or her lobbying activities
25 during the previous calendar quarter.

26 (2)(A) A registered lobbyist who lobbies members of the General
27 Assembly shall file a monthly lobbyist activity report, signed and sworn to,
28 for any month in which the General Assembly is in session. A quarterly report
29 is not required if the registered lobbyist has filed monthly lobbyist
30 activity reports for each month of the calendar quarter.

31 (B) The monthly lobbyist activity report shall be filed
32 within ten (10) days after the end of each month.

33 (b) Lobbyist activity reports shall be open to public inspection.

34 (c) When filing any report required by this section, a lobbyist shall
35 send a copy of the report to any public servant named in the report as
36 receiving:

1 (1) Anything of pecuniary value given to the public servant or
2 on behalf of the public servant;

3 (2) Payment for food, lodging, or travel; or

4 (3) Any other item paid or given to a public servant or on
5 behalf of the public servant, except for campaign contributions, unless
6 consideration of equal or greater value has been given.

7
8 SECTION 13. Arkansas Code § 21-8-604 is amended to read as follows:

9 21-8-604. Activity reports - Required contents.

10 (a) The lobbyist activity reports shall be signed and sworn to by the
11 registered lobbyist.

12 (b) The reports shall contain:

13 (1)(A) The total of all expenditures made or incurred by the
14 registered lobbyist or on behalf of the registered lobbyist by his or her
15 employer or any officer, employee, or agent during the preceding period.

16 (B) These totals shall be itemized according to financial
17 category and employers and clients, including food and refreshments,
18 entertainment, living accommodations, advertising, printing, postage, travel,
19 telephone, and other expenses or services.

20 (C) Registered lobbyists shall not be required to report
21 office expenses other than office expenses specifically required to be
22 reported under this section.

23 (D) Registered lobbyists are not required to report
24 unreimbursed personal living and travel expenses not incurred directly for
25 lobbying;

26 (2)(A) An itemized listing of ~~each~~:

27 (i) ~~Gift~~ Anything of pecuniary value given to a
28 public servant or on behalf of the public servant;

29 (ii) Payment for food, lodging, or travel ~~in excess~~
30 ~~of forty dollars (\$40.00)~~ on behalf of a public servant; and

31 (iii) Any other item paid or given to a public
32 servant or on behalf of the public servant, except for campaign
33 contributions, ~~having a value in excess of forty dollars (\$40.00)~~ unless
34 consideration of equal or greater value has been given therefor. If the
35 person receiving or to be benefiting by the item is a public employee, the
36 person's governmental body shall be identified.

1 (B) Each item shall be identified by date, amount paid or
2 value, and the name of the individual receiving or to be benefited by the
3 item, and a description of the item.

4 (C) In the case of special events, including parties,
5 dinners, athletic events, entertainment, and other functions, expenses need
6 not be allocated by individuals. The information reported for a special event
7 shall include:

8 (i) The date of the event;

9 (ii) The name of the event;

10 (iii) The location of the event;

11 (iv) The name of the governmental body or group of
12 public servants invited;

13 (v) The exact amount paid by the lobbyist toward the
14 total expenditure; and

15 (vi) The name of the lobbyist's employer or client
16 making the expenditure and the names of all other lobbyists sharing in the
17 cost of the payment;

18 (3) A detailed statement of any money loaned or promised or line
19 of credit established to a public servant or to anyone on behalf of the
20 public servant ~~in excess of twenty five dollars (\$25.00) per individual.~~
21 Money loaned or a line of credit established that is issued in the ordinary
22 course of business by a financial institution or a person who regularly and
23 customarily extends credit shall not be required to be disclosed; and

24 (4) A statement detailing the direct business association or
25 partnership with any public servant before whom the lobbyist may engage in
26 lobbying.

27 (c) Whenever the name of a public servant will appear in an activity
28 report of a lobbyist, the lobbyist shall notify the public servant and
29 provide him or her the information being reported. The lobbyist shall mail or
30 deliver the notification to the public servant not later than seven (7)
31 working days prior to the date for filing the activity report.

32
33 SECTION 14. Arkansas Code § 21-8-1001 is amended to read as follows:

34 21-8-1001. Conflicts of interest.

35 (a)(1) No member of a state board or commission or board member of an
36 entity receiving state funds or receiving other funds through a state agency

1 shall participate in, vote on, influence, or attempt to influence an official
2 decision if the member has a pecuniary interest in the matter under
3 consideration by the board, commission, or entity.

4 (2) A member of a state board or commission or board member of
5 an entity receiving state funds or receiving other funds through a state
6 agency may participate in, vote on, influence, or attempt to influence an
7 official decision if the only pecuniary interest that may accrue to the
8 member is incidental to his or her position or accrues to him or her as a
9 member of a profession, occupation, or large class to no greater extent than
10 the pecuniary interest could reasonably be foreseen to accrue to all other
11 members of the profession, occupation, or large class.

12 (b) No member of a state board or commission or board member of an
13 entity receiving state funds shall participate in any discussion or vote on a
14 rule or regulation that exclusively benefits the member.

15 (c)(1) Nothing in this chapter shall prohibit a board or commission
16 member from contracting with the board or commission on which he or she
17 serves if the contracts are obtained through competitive sealed bids under §
18 19-11-229 or competitive sealed proposals under § 19-11-230.

19 (2) A board or commission member awarded a contract pursuant to
20 competitive sealed bids or competitive sealed proposals shall report the
21 contract to the Director of the Arkansas Ethics Commission by January 31 of
22 each year pertaining to contracts entered into during the previous calendar
23 year.

24 (d)(1) Except for contracts covered under subdivision (c)(1) of this
25 section, before a contract or transaction with a member having a pecuniary
26 interest as allowed in this section is deemed valid and enforceable, the
27 state entity shall disclose to the director the nature and amount of the
28 contract or transaction.

29 (2)(A) Upon receipt of the disclosure, the director has ten (10)
30 working days to notify the state entity that additional information is
31 needed, or to inform the state entity that the contract or transaction is
32 disapproved.

33 (B) If additional information is requested, the director
34 has ten (10) additional working days from the receipt of the information to
35 inform the state entity that the contract or transactions are disapproved.

36 (C) If the director does not send the state entity written

1 notice of the disapproval of the contract or transaction within ten (10)
2 working days, the contract or transaction is deemed approved by the director.

3 (3) If the director disapproves the contract or transaction, the
4 state entity may appeal the decision to the Arkansas Ethics Commission.

5 (4) The director may disapprove the contract or transaction if
6 it appears that:

7 (A) The circumstances are such that fair competitive
8 access to governmental procurement has not been obtained;

9 (B) There is no rational basis for the award of the
10 contract to the member;

11 (C) The state entity has not followed proper procedures in
12 bidding or awarding the contract; or

13 (D) It appears that a board or commission member has used
14 his or her position to obtain the contract.

15 (5)(A) If the director disapproves the contract or transaction,
16 the state entity may appeal the decision to the Arkansas Ethics Commission.

17 (B) All appeals shall be made in writing to the Arkansas
18 Ethics Commission within thirty (30) days of disapproval by the director.

19 (C) Upon receipt of an appeal, the Arkansas Ethics
20 Commission shall decide the appeal at its next commission meeting unless
21 additional information or witnesses are required or a delay is agreed upon by
22 the state agency making the appeal.

23 (e) On a quarterly basis, the director shall notify the Chief Fiscal
24 Officer of the State, the Legislative Council, and the Legislative Joint
25 Auditing Committee of all contracts or transactions disclosed to the director
26 for review pursuant to the terms of this section.

27
28 SECTION 15. Arkansas Code 21-8-1004 is amended to read as follows:

29 § 21-8-1004. Penalties – Investigation by Arkansas Ethics Commission.

30 (a) In addition to any penalty contained in any other provision of
31 law, including without limitation § 19-11-702, any member of a state board or
32 commission or board member of an entity receiving state funds who knowingly
33 and intentionally violates any of the provisions of this subchapter may be
34 removed from office by the appointing authority.

35 (b) The Arkansas Ethics Commission may investigate complaints alleging
36 a violation of this subchapter and may make recommendations to the appointing

1 authority.

2
3 SECTION 16. Arkansas Code Title 21, Chapter 8 is amended to add an
4 additional subchapter to read as follows:

5 21-8-1101. Definitions.

6 As used in this subchapter:

7 (1) "Board member" means a member of any state board, bureau,
8 commission, or institution of the State of Arkansas;

9 (2) "Directly or indirectly interested" means the receipt of
10 compensation or other benefits by a:

11 (A) Board member;

12 (B) Family member; or

13 (C) Business or other entity in which the board member or
14 family member has a financial interest;

15 (3) "Family" or "family member" means:

16 (A) An individual's spouse;

17 (B) Children of the individual or children of the
18 individual's spouse;

19 (C) The spouse of a child of the individual or the
20 individual's spouse;

21 (D) Parents of the individual or parents of the
22 individual's spouse;

23 (E) Brothers and sisters of the individual or brothers and
24 sisters of the individual's spouse;

25 (F) Anyone living or residing in the same residence or
26 household with the individual or in the same residence or household with the
27 individual's spouse; or

28 (G) Anyone acting or serving as an agent of the individual
29 or as an agent of the individual's spouse;

30 (4) "Financial interest" means:

31 (A) Ownership of more than a five percent (5%) interest in
32 a business or other entity;

33 (B) Holding a position as an officer, director, trustee,
34 partner, or other top level management of a business or other entity; or

35 (C) Classification as an employee, agent, independent
36 contractor, or any position where the individual's compensation is based, in

1 whole or in part, on transactions with the public educational entity;

2 (5) "Institution" means any state-supported institution of
3 higher education of the State of Arkansas or its related foundations or other
4 related entities;

5 (6) "Other related entity" means:

6 (A) Any foundation or other entity established for the
7 sole benefit of the public agency or institution;

8 (B) An entity owned by the public agency or institution or
9 one of its foundations; or

10 (C) An entity receiving grants or aid from or through the
11 public agency or institution;

12 (7) "Public agency" means any state agency, bureau, commission,
13 institution, board, or constitutional agency of the State of Arkansas; and

14 (8) "Transaction" means a contract, exchange, promise, financial
15 relationship, or any other agreement.

16
17 21-8-1102. Filing of disclosure of related party transactions.

18 (a) Between January 1 and January 31 of each year, a board member
19 shall file a disclosure of related party transactions with the Secretary of
20 State.

21 (b) A board member shall disclose any transaction with another board
22 member, the public agency, other related entity, or an entity served by the
23 public agency if the board member directly or indirectly receives a benefit
24 in the amount of five thousand dollars (\$5,000) or more:

25 (1) In any calendar year;

26 (2) In a twelve (12) month period; or

27 (3) At a predetermined point in the future.

28 (c) Upon the initial filing of the disclosure of related party
29 transactions, a board member shall disclose any transactions with another
30 board member or the public agency or other related entity where the board
31 member is directly or indirectly receiving a benefit in the amount of five
32 thousand dollars (\$5,000) in any of the three (3) previous calendar years.

33 (d) Nothing in this section shall require board members to disclose
34 the amount of donations to public agencies or their related entities.

35 (e)(1) The Secretary of State shall develop forms to assure compliance
36 with this subchapter.

1 (2) The content of the forms shall include without limitation
2 the nature and amount of the transactions and the names of the parties to the
3 transactions.

4 (f) The filing of disclosure of related party transactions shall also
5 include transactions by board members with public agencies or other related
6 entity involving patents, copyrights, or other proprietary information
7 belonging in whole or in part to:

8 (1) The public agency;

9 (2) An entity served by the public agency; or

10 (3) An entity with which the public agency or an entity served
11 by the public agency is actively involved in research.

12
13 /s/ Petrus, et al
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